

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

ARTURO DIAZ

vs

DOUG DRETKE

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CIVIL NO. M-04-225

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

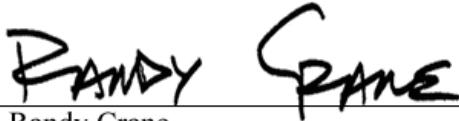
The Court has reviewed the Magistrate Judge's Report and Recommendation regarding Petitioner's action pursuant to 28 U.S.C. § 2254, and Petitioner's Objections to Report and Recommendation of United States Magistrate Judge thereto (Doc. No.14). The Court has conducted a *de novo* review of the record in this matter as it pertained to the specific objections raised by Petitioner pursuant to 28 U.S.C. § 636(b)(1). After having conducted such reviews of the Report and Recommendation, Petitioner's Objections and the record as it pertained thereto, the Court is of the opinion that the conclusions in said Report and Recommendation should be adopted by this Court.

It is, therefore, **ORDERED, ADJUDGED** and **DECREED** that the conclusions in United States Magistrate Judge's Report and Recommendation entered as Docket Entry No. 12 are hereby adopted by this Court.

Accordingly, Dretke's Motion for Summary Judgment and Supplemental Motion for Summary Judgment (Doc. Nos. 6 and 10) are **GRANTED** and Diaz' First Amended Petition for Writ of Habeas Corpus is **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that **NO CERTIFICATE OF APPEALABILITY SHOULD ISSUE**.

The Clerk shall send a copy of this Order to all parties of record.

SIGNED this 14th day of September, 2005, at McAllen, Texas.



Randy Crane
United States District Judge